



STATE BOARD OF EQUALIZATION

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No. 99/64

November 19, 1999

TO INTERESTED PARTIES:

NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION

AMEND PROPERTY TAX RULE 301, 305.1, 309, 313, 317, AND 321 AND  
ADD PROPERTY TAX RULE 305.2 – LOCAL EQUALIZATION RULES

PUBLIC HEARING: WEDNESDAY, JANUARY 5, 2000 AT 1:30 P.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606 (c) of the Government Code, proposes to amend Rules 301, 305.1, 309, 313, 317, and 321 and to add Rule 305.2 – Local Equalization Rules, in Title 18, Division 1 of the California Code of Regulations. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on January 5, 2000. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by January 5, 2000.

INFORMATIVE DIGEST

Rules 301, 305.1, 309, 313, 317, and 321 are amended and Rule 305.2 is added to interpret and make specific the Constitutional and statutory authority of the Board to prescribe rules and regulations to govern local boards of equalization and assessment appeals board when equalizing property values.

Rule 301 – Definitions and General Provisions. The proposed amendments set forth more precisely the definitions that govern construction of the local equalization rules.

Rule 305.1 – Exchange of Information. The proposed amendments clarify and make specific statutory provisions.

Rule 305.2 – Pre-Hearing Conference. The proposed addition provides authority for boards of supervisors to establish prehearing conferences and prescribes notice procedures.

Rule 309 – Hearing. The proposed amendments add an exception to the requirement that an appeals board hear and decide an application within two years, specify the period of time for which the applicant's opinion of value remains on the roll if enrolled as a result of the appeals

board failing to hear and decide the application within two years and clarify the notice and hearing procedures to be followed upon denial of an application.

Rule 313 – Hearing Procedure. The proposed amendments clarify the presentation of the case, the application of the evidentiary presumptions affecting the burden of proof, and the types of evidence that board members and hearing officers may not consider in their decision on an application.

Rule 317 – Personal Appearance by Applicant; Appearance by Agent. The proposed amendments clarify and consolidate the provisions governing persons who are required to appear at hearing.

Rule 321 – Burden of Proof. The proposed amendments clarify the operation of evidentiary presumptions applicable to assessment appeals proceedings.

The express terms of the proposed action, written in plain English, are available from the agency contact person named in this notice.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendment of Rules 301, 305.1, 309, 313, 317, and 321 and addition of Rule 305.2 do not impose a mandate on local agencies or school districts. Further, the Board has determined that the new rule will result in no additional direct or indirect costs to any State agency or any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, and that there are no other non-discretionary costs or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code Section 11346.53(c), the Board of Equalization finds that the amendment of Rules 301, 305.1, 309, 313, 317, and 321 and addition of Rule 305.2 will not have a significant adverse economic impact on business, because the proposed changes only clarify existing constitutional and statutory interpretations.

The amendment and deletion of these rules will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment and deletion of these rules as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed amendment and deletion of the rules will not affect small business because the new rules only clarify existing constitutional and statutory interpretations.

### ADVERSE ECONOMIC IMPACT ON PRIVATE PERSONS/BUSINESSES

There will be no adverse economic impact on private businesses or persons because the proposed changes only clarify existing constitutional and statutory interpretations.

### FEDERAL REGULATIONS

Rules 301, 305.1, 305.2, 309, 313, 317, and 321 have no comparable Federal regulations.

### PLAIN ENGLISH STATEMENT

Preparation of the proposed amendment to this regulation included consideration of the “plain English” requirement. Any technical terms that may be unfamiliar to the intended users and are not industry-recognized are defined or explained.

### AUTHORITY

Evidence Code section 664; Government Code sections 15606, subdivision (c) and 31000.6; Revenue and Taxation Code sections 110, 110.1, 110.5, 167, 408, 441, 1601, 1603, 1604, 1605.4, 1606, 1607, 1608, 1609, 1609.4, 1624.4, 1637, 1641.1, and 1641.2.

### REFERENCE

California Constitution, article XIII, section 16.

### CONTACT

Questions regarding the content of the proposed regulations should be directed to: Mr. Louis Ambrose, Tax Counsel, at P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 445-5580; FAX (916) 323-3387.

Written comments for the Board’s consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, and P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

### ALTERNATIVES CONSIDERED

The Board must determine that no alternative considered would be more effective in carrying out the purpose for which this action is proposed or be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF STATEMENT OF REASONS AND OF TEXT OF PROPOSED REGULATIONS

The Board has prepared a statement of reasons and strike-out version of the proposed rules. Those documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Mary Ann Stumpf, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. The express terms of the proposed regulations (rules) are available on the internet at the Board's website <http://www.boe.ca.gov>.

### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed amendments and deletions if the texts remain substantially the same as described in the texts originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed texts, the Board will make the modified texts, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation or regulations. The texts of any modified regulations will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulations will be available to the public from Ms. Stumpf. The State Board of Equalization will consider written comments on the modified regulations for fifteen days after the date on which the modified regulations are made available to the public.

Dated: November 2, 1999.

STATE BOARD OF EQUALIZATION

/s/ Janice Masterton

Janice Masterton, Chief  
Board Proceedings Division

## Rule 301. Definitions and General Provisions.

The provisions set forth in this ~~section~~ regulation govern the construction of this subchapter.

(a) "County" is the county or city and county wherein the property is located ~~which~~ that is the subject of the proceedings under this subchapter.

(b) "Assessor" is the assessor of the county.

(c) "Auditor" is the auditor of the county.

(d) "Board" is the board of equalization or assessment appeals board of the county.

(e) "~~Chairman~~ Chair" is the ~~chairman~~ chair of the county board of equalization or assessment appeals board.

(f) "Clerk" is the clerk of the county board of equalization or assessment appeals board.

(g) "Person affected" or "party affected" is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date ~~one who owns an interest in property which~~ that is the subject of the proceedings under this subchapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.

(h) "Full cash value" or "fair market value" ~~.Except as otherwise is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code "full cash value" and "market value", means the amount of cash or its equivalent the property would bring if exposed for sale in an open market.~~

(i) "Restricted value" is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(j) "Full value" is either the full cash value or the restricted value.

~~(k) Taxable value is the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.~~ "Equalization" is the determination by the board of the correct full value for the property that is the subject of the hearing.

(l) "County legal advisor" is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, or outside counsel specifically retained to

advise the county board of equalization or assessment appeals board.

(m) "Authorized agent" is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

Note: Authority cited: Government Code section 15606(c).

Reference: Sections 110, 110.1, 110.5, 1601-~~1614~~, 1603 et seq. ~~1620-1630~~, Revenue and Taxation Code; Section 31000.6, Government Code.

### **Rule 305.1. EXCHANGE OF INFORMATION.**

(a) REQUEST FOR INFORMATION. When the assessed value of the property involved, before deduction of any exemption accorded the property, is \$100,000 or less, the applicant may file a written request for an exchange of information with the assessor; and when the assessed value before deduction of any exemption exceeds \$100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party and the clerk at any time prior to 20 days before the commencement of the hearing. The clerk shall ~~immediately,~~ at the earliest opportunity, forward any request filed with ~~his office~~ the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data:

(1) COMPARABLE SALES DATA. If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property.

(2) INCOME DATA. If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the allowable expenses, ~~and~~ the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.

(3) COST DATA. If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or

testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

(b) TRANSMITTAL OF DATA TO OTHER PARTY. If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall ~~mail~~ submit a response to the initiating party and to the clerk at least 10 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he or she shall mail submit his the response to the address shown on the application ~~for hearing~~ or on the request for exchange of information, whichever is filed later.

(c) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this ~~section~~ regulation, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

(d) NONRESPONSE TO REQUEST FOR INFORMATION. If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement for a reasonable period of time. The postponement shall extend the time for responding to the request. If the board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

Note: Authority cited: Section 15606(c) , Government Code.  
Reference: Sections 408, 441, 1606, 1609.4, Revenue and Taxation Code.



**Rule 305.2. PREHEARING CONFERENCE.**

(a) A county board of supervisors may establish prehearing conferences. If prehearing conferences are established, the county board of supervisors shall adopt rules of procedure for prehearing conferences. A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application.

(b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of the conference. Notice of the time, date, and place of the conference shall be given not less than 30 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

Note: Authority cited: Government Code section 15606(c).

Reference: Article XIII, Section 16, California  
Constitution; Section 1601 et seq., Revenue and  
Taxation Code.

**Rule 309. HEARING.**

(a) In counties having a population in excess of 4,000,000, on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties, the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this ~~article~~ subchapter. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) ~~For applications filed on or after January 1, 1983, the A~~ hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of ~~Section~~ §1603 of the Revenue and Taxation Code, unless the ~~taxpayer applicant or the applicant's agent and the county assessment appeals~~ board mutually agree in writing or on the record to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in ~~subdivision~~ subsection (b) of this ~~section~~ regulation, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

(1) The applicant has not filed a timely and complete application; or,

(2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,

(3) The applicant has not complied fully with a request for the exchange of information under ~~Section~~ regulation 305.1 of this subchapter or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code; or

(4) Controlling litigation is pending. "Controlling litigation" is litigation which is:

(A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and

(B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing; or,

(5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code §section 1624.4 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code §section 1604; or,

(6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code §section 1641.1, in those counties in which the board of supervisors has adopted a resolution implementing section 1641.1, within 90 days of the expiration of the two-year period required by Revenue and Taxation Code §section 1604.

For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has not been extended pursuant to subsections (b) or (c) of this regulation, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the board fails to act.

For applications appealing decline in value and personal property assessments that have not been heard and decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.

(d) If the applicant has initiated proceedings pursuant to ~~subdivision~~ subsection (c)(5), or made a request pursuant to ~~subdivision~~ subsection (c)(6) of this ~~section~~ regulation, the two-year time period described in ~~subdivision~~ subsection (b) shall be extended 90 days.

(e) The applicant shall not be denied a timely hearing and determination pursuant to ~~subdivision~~ subsection (b) of this ~~section~~ regulation, by reason of any of the exceptions enumerated in ~~subdivisions~~ subsection (c)(1), (c)(2), (c)(3), or (c)(4) herein, unless, within two years of the date of the application, the board, or the clerk at the direction of the board, gives the applicant and/or the applicant's agent written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial ~~at the time of the hearing on the application~~. If requested by the applicant or the applicant's

agent, the clerk shall schedule a hearing on the validity of the application and shall so notify the applicant, the applicant's agent, and the assessor.

When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

Note: Authority cited: Government Code section 15606(c)

Reference: Sections 441, 1603, 1604, 1606, 1624.4, 1641.1, 1641.2, Revenue and Taxation Code.

### Rule 313. HEARING PROCEDURE.

Hearings on applications shall proceed as follows:

(a) The chair or the clerk shall announce the number of the application and the name of the applicant. The ~~chairman~~ chair shall then determine if the applicant or ~~his~~ the applicant's agent is present. If neither is present, the ~~chairman~~ chair shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor ~~his~~ the applicant's agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed prior to the hearing date, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

The denial of an application for lack of appearance by the applicant, or ~~his~~ the applicant's agent, is not a decision on the merits of the application and is not subject to the provisions of ~~Section~~ regulation 326 of this subchapter. The board of supervisors may adopt a procedure which authorizes reconsideration of the denial where the applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration within a period set by the board, not to exceed 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to request reconsideration within the period set, or whose requests for reconsideration are denied, may refile an appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code ~~§~~section 80.

(b) If the applicant or ~~his~~ the applicant's agent is present, the chair or the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the ~~taxable~~ value of the property. The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

~~(c) The chairman~~ In applications where the applicant has the burden of proof, the board shall then require the applicant or ~~his~~ the applicant's agent to present his or her case evidence to the board first, and then the board shall determine whether the applicant has presented proper evidence supporting his or her

position. This is sometimes referred to as the burden of production. In the event the applicant has met the burden of production, the board shall then require the assessor to present his or her case evidence. The board shall not require the applicant to present evidence first except when the hearing involves a penalty portion. If the applicant fails to present evidence of value of the property, the presumption set forth in section 321 (a) applies and the board shall not require the assessor to present his case.

~~(d)~~ When a hearing involves the assessment of an owner occupied single-family dwelling, and the applicant has complied with section 305 (c) and, if applicable, section 305.1, then the presumption in section 321 (b) applies. In such instances the chairman shall require the assessor to present appraisal data that supports the taxable value he has determined for the property subject of the hearing.

~~(e)~~ When a hearing involves a penalty portion of an assessment, the assessor shall present his evidence notwithstanding the failure of the assessee or his agent to present evidence, to appear, or to request postponement of the hearing.

(1) A penalty portion of an assessment.

(2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the assessor. In those instances, the chair shall require the assessor to present his or her case to the board first. With respect to escape assessments, the presumption in favor of the applicant provided in regulation 321(b) of this subchapter does not apply to appeals resulting from situations where an applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction.

(3) A change in ownership and the assessor has not enrolled the purchase price, and the applicant has provided the change of ownership statement required by law. The assessor bears the burden of proving by a preponderance of the evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.

~~-(f)-(d)~~ All testimony shall be taken under oath or affirmation.

~~(g)-(e)~~ The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of

serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of proper evidence ~~properly~~ admitted into the record. Board members or hearing officers may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for ~~the~~ cross-examination of all witnesses and materials proffered as evidence, for argument, and for rebuttal. The party having the burden of proof shall have the right to open and close the argument.

~~(h)~~(f) When the assessor requests the board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the ~~chairman~~ chair shall determine whether or not the assessor gave notice in writing to the applicant or ~~his~~ the applicant's agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing, the assessor may introduce such evidence at the hearing. When the assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, the assessor no longer has the presumption accorded in regulation 321(a) of this subchapter and the assessor shall present evidence first at the hearing, unless the applicant has failed to supply all the information required by law to the assessor. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

~~(i)~~(g) Hearings by boards and hearing officers shall be open, accessible, and audible to the public except that:

(1) Upon conclusion of the evidentiary portion of the hearing, the board or hearing officer may take the matter under submission and deliberate in private in reaching a decision, and

(2) The board or hearing officer may grant a request by the applicant or the assessor to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a "trade secret" is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the assessor or the applicant ~~which that~~ relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the

estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the ~~applicant~~ party to whom it relates.

Note: Authority cited: Government Code section 15606(c)

Reference: Article XIII A, California Constitution.  
Sections 110, 167, ~~1605~~, 1605.4, 1607, 1609,  
~~and~~ 1609.4, 1637, Revenue and Taxation Code.  
Section 664, Evidence Code.



**Rule 317. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT.**

(a) The applicant must appear personally at the hearing or be represented by an agent, unless the applicant's appearance has been waived by the board in accordance with regulation 316 of this subchapter. If the applicant is represented by an agent, the agent ~~who~~ shall be thoroughly familiar with the facts pertaining to the matter before the Bboard.

(b)(1) If the application was filed by the applicant, ~~Any any~~ person, (other than a California licensed ~~an~~ attorney at law retained by the applicant or a person mentioned in subsections (c), (d) except an agent, or (e)) who appears at the hearing purporting to act as agent for the applicant shall ~~prior to the hearing~~ first file with the clerk a written authority authorization, signed by the applicant, to represent the applicant at the hearing. ~~An appearance by an officer or employee of a corporate applicant or by a relative mentioned in Section 320 requires no written authorization.~~

(2) If at the hearing the applicant is represented by a person other than the person who was originally authorized by the applicant to appear at the hearing, that person shall present to the board a written authorization signed by the applicant indicating the applicant's consent to the change in representation.

(3) The written authorization required pursuant to this regulation shall include the information required by regulation 305(a) of this subchapter and shall clearly state that the agent is authorized by the applicant to appear at hearings before the board.

(c) If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

(d) Where the applicant is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of any officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.

(e) A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

(f) If an agent is previously authorized by the applicant to file an application, no further authorization is required for that agent to represent the applicant at the subsequent hearing.

Note: Authority cited: Government Code section 15606(c)  
Reference: Section 1601 ~~et seq.~~, 1607, 1608, Revenue and Taxation Code.

**Rule 321. BURDEN OF PROOF.**

~~(a)~~ The law presumes Subject to exceptions set by law, it is presumed that the assessor has properly performed his or her duty duties. to assess and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that the applicant ~~proceed to~~ present independent evidence relevant to the full value of the property or other issue presented by the application. ~~The assessor has the burden of establishing the basis for imposition of a penalty assessment. No greater relief may be granted than is justified by the evidence produced.~~

(b) If the applicant has presented evidence, and the assessor has also presented evidence, then the board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his or her duties is not evidence and shall not be considered by the board in its deliberations.

(c) The assessor has the burden of establishing the basis for imposition of a penalty assessment.

~~(b)~~ (d) An exception ~~Exceptions to subsection (a) applies apply~~ in any hearing involving the assessment of an owner-occupied single-family dwelling or an escape assessment. In such instances, the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the ~~taxpayer or assessee~~ applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.

~~(e)~~ (e) In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.

~~(d)~~ (f) In weighing evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.

Note: Authority cited: Government Code section 15606(c)

Reference: Sections 110, 167, 1601 et seq., Revenue and  
Taxation Code; Section 664, Evidence Code.